

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEB MORROW,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Defendant.

14 Civ. 1527 (VM)

10 Crim. 102 (VM)

ORDER

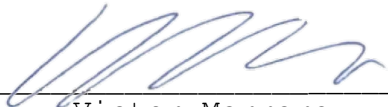
VICTOR MARRERO, United States District Judge.

The Court previously determined that petitioner, Neb Morrow ("Morrow") satisfied the grounds for second and successive habeas relief with respect to one ground of his motion brought under United States v. Davis, 139 S. Ct. 2319 (2019) and United States v. Barrett, 937 F.3d 126 (2d Cir. 2019), and directed the Government to answer Morrow's motion. (See Civ. Dkt. No. 12.) In its response, the Government agrees with Morrow that his firearm conviction under 18 U.S.C. Section 924(c)(1)(A)(ii) can no longer stand after Davis, because Hobbs Act robbery conspiracy qualifies as a "crime of violence" only under the now-unconstitutional "residual" clause of that statute. (See Civ. Dkt. No. 14.) Accordingly, the Court will vacate Morrow's conviction for Count 2 of indictment 10-cr-102 for brandishing a firearm during and in relation to a crime of violence, to wit, the Hobbs Act robbery conspiracy charged in Count One, and will resentence Morrow.

Morrow shall be resentenced on July 21, 2023, at 1:00 p.m. The Court directs the Probation Department to prepare a supplemental Presentence Investigation Report in connection with the resentencing and the parties shall file sentencing submissions by July 14, 2023. The Clerk of the Court is respectfully directed to mail a copy of this Order to Morrow at Sing Sing Correctional Facility, 354 Hunter Street, Ossining, NY 10562.

SO ORDERED.

Dated: 18 April 2023
New York, New York



Victor Marrero
U.S.D.J.